

### **REMARKS**

Applicant hereby traverses the current restriction and election requirements, and requests reconsideration and withdrawal in light of the remarks contained herein. Claims 1-40 and 42-43 are pending in this application.

#### **Restriction Requirement**

In response to the Examiner's Restriction Requirement mailed 12 May 2008, Applicant hereby elects group I, which includes claims 1-15, 21-22, and 25-39 as defined by the Restriction Requirement, for further prosecution. The election is being made WITH TRAVERSE. Applicant respectfully requests reconsideration and withdrawal of the restriction requirement in light of the arguments set forth below.

Restriction is proper if two criteria are satisfied, namely that the inventions are independent or distinct, and that there is a serious burden on the examiner, see M.P.E.P. §803.

The Office Action separates the claims into three groups, namely:

Group I claims 1-15, 21-22, and 25-39;

Group II claims 16-20, and 23-24; and

Group III claims 40 and 42-43.

#### **With Regards to the Restriction between Groups I and II**

The Office Action states that inventions of groups I and II are related as combination and subcombination. The Office Action then states that the combination does not require the particulars of the subcombination, and that subcombination has utility by itself. The Office Action then lists the reasons that a burden may apply.

Applicant respectfully asserts that a prima facie case for restriction between groups I and II has not been provided. The Office Action then states that the combination does not require the particulars of the subcombination, specifically that the combination does not require electronic

circuitry or output electrodes, as required of the subcombination. Applicant notes that the Office Action does not specifically state which group is the combination and which group is the subcombination. Nonetheless, Applicant asserts that claim 16 of group II defines electronic circuitry and output electrodes, and claim 35 of group I defines electronic circuitry and output electrodes. Since both groups require electronic circuitry and output electrodes, Applicant respectfully asserts that the stated particulars are found in both the combination and the subcombination. Furthermore, with regard to the burden, the Office Action merely lists the reasons for insisting on the restriction, see pages 4 and 5. The Office Action does not select one or more of the reasons, and does not provide a rationale basis for the reason, see M.P.E.P. § 808.02. Thus, the restriction between groups I and II is improper and should be withdrawn.

With Regards to the Restriction Between Groups I and III

The Office Action states that inventions of groups I and II are related as combination and subcombination. The Office Action then states that the combination does not require the particulars of the subcombination, and that subcombination has utility by itself. The Office Action then lists the reasons that a burden may apply.

Applicant respectfully asserts that a prima facie case for restriction between groups I and III has not been provided. The Office Action then states that the combination does not require the particulars of the subcombination, specifically that the combination does not require that the gel contain a conductivehydropolymer, a conductive hydrocolloid, or treatment molecules. Applicant notes that the Office Action does not specifically state which group is the combination and which group is the subcombination. Nonetheless, Applicant asserts that claim 5 of group I defines that the gel is a conductivehydropolymer containing at least one type of a plurality of treatment molecules, and that claim 40 of group III defines that the gel has at least one of a conductivehydropolymer and a conductive hydrocolloid; and a plurality of treatment molecules. Since both groups include treatment molecules, Applicant respectfully asserts that the stated particulars are found in both the combination and the subcombination. Furthermore, with regard to the burden, the Office Action merely lists the reasons for insisting on the restriction, see pages

4 and 5. The Office Action does not select one or more of the reasons, and does not provide a rationale basis for the reason, see M.P.E.P. § 808.02. Thus, the restriction between groups I and III is improper and should be withdrawn.

Therefore, for the reasons cited above, Applicant believes that restriction between groups I and II, and I and III is improper. As Applicants have elected group I for prosecution, Applicant respectfully asserts that claims of groups II and III be examined along with the claims of group I.

### **Election of Species**

The Office Action has stated that if group I is elected, then the Applicant is to select between two species, namely:

- A) Figures 1A-1B; and
- B) Figures 2A-2B.

The Office Action currently holds claims 1, 3, 5-7, 10-14, 21, 25-33, and 35-39 to be generic.

Applicant has reviewed the groupings and holding of the Office Action and hereby elects species B, WITHOUT TRAVERSE, for further prosecution.

Applicant agrees with the listing of generic claims.

Applicant believes that claims 2, 4, 8-9, and 15 read on species B, and should be examined with the election.

Applicant believes that claims 22 and 34 read on the species A, but depend from generic claim 21, and respectfully reminds the Examiner that should claim 21 be allowed, these claims should be allowed as well.

Thus, with the election of species B, Applicant notes that claims 1-15, 21, 25-33, and 35-39 should be examined.

As stated above with respect to the Restriction Requirement, Applicant believes that that the claims of groups II and III should be examined as well.

With respect to group II, Applicant notes that claims 16-19 and 23-24 are generic, and that claims 20 reads on the species B. Thus, with the election of species B, claims 16-20 and 23-24 should be examined as well.

With respect to group III, Applicant notes that claims 40 and 42-43 are generic. Thus, with the election of species B, claims 40 and 42-43 should be examined as well.

### **Conclusion**

Applicants respectfully request that the Examiner call the below listed attorney if the Examiner believes that such a discussion would be helpful in resolving any remaining problems. In view of the above, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 51407/P029US/10605267 from which the undersigned is authorized to draw.

Dated: June 12, 2008

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: June 12, 2008

Signature: \_\_\_\_\_

(Joy H. Perigo)

Respectfully submitted,

By \_\_\_\_\_

Michael A. Papalas  
Registration No.: 40,381  
FULBRIGHT & JAWORSKI L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-2784  
(214) 855-8186  
(214) 855-8200 (Fax)  
Attorney for Applicant